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Netflix, Inc., and
Netflix Worldwide Entertainment, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FIONA HARVEY,

Plaintiff,

v.

NETFLIX, INC., and NETFLIX
WORLDWIDE ENTERTAINMENT,
LLC,

Defendants.

Case No. 2:24-cv-04744-RGK-AJR

**[PROPOSED] ORDER RE:
DEFENDANTS' EVIDENTIARY
OBJECTIONS TO EVIDENCE
OFFERED BY PLAINTIFF IN
SUPPORT OF HER OPPOSITION TO
DEFENDANTS' SPECIAL MOTION
TO STRIKE**

Date: September 16, 2024
Time: 9:00 a.m.
Place: Courtroom 850

Hon. R. Gary Klausner

[PROPOSED] ORDER

The Court has considered Defendants Netflix, Inc., and Netflix Worldwide Entertainment, LLC's (collectively, "Netflix") objections to the declarations and evidence submitted by plaintiff Fiona Harvey ("Harvey") in opposition to Netflix's Special Motion to Strike, and hereby rules as follows:

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
1.	Levenson Decl., ¶ 5: Annexed as Exhibit 3 is a true and correct copy of a letter dated May 23, 2024 from Netflix to the Committee clarifying its statement at the Hearing that "the person on whom the show is based" was the subject of a court order and not a criminal conviction.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible; privileged (Fed. R. Evid. §§ 402, 501). Inadmissible hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
2.	Levenson Decl., ¶ 10: When Baby Reindeer is viewed on the Netflix platform (not the thumb drive Netflix provided to the Court) the next episode of Baby Reindeer begins before the credits complete such that no disclaimer is seen by the viewer.	Lack of foundation (Fed. R. Evid. § 901). Lacks personal knowledge (Fed. R. Evid. § 602). Inadmissible speculation (Fed. R. Evid. §§ 602, 701). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
3.	Levenson Decl., ¶ 10: At the end of any episode the viewer is presented with this choice at the end of the episode: . . . If “Watch Credits” is not selected, then the disclaimer is never seen.	Lacks personal knowledge; inadmissible speculation (Fed. R. Evid. §§ 602, 701). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
4.	Levenson Decl. Ex. 1: Transcript of May 8, 2024 Hearing of the Culture, Media and Sport Committee in the House of Commons.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible; privileged (Fed. R. Evid. §§ 401, 402, 501). Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
5.	Levenson Decl. Ex. 2: Tudum Article	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
6.	Levenson Decl. Ex. 5: Article titled Will the Baby Reindeer Scandal Kill 'True Story' TV.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible hearsay (Fed. R. Evid. §§ 801, 802). Inadmissible speculation; lacks foundation (Fed. R. Evid. §§ 602, 701). Improper Lay Opinion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
7.	Levenson Decl. Ex. 6: Screenshot excerpts from the ebook of the play, Baby Reindeer.	Lacks personal knowledge & lacks foundation (Fed. R. Evid. § 602). Inadmissible hearsay. (Fed. R. Evid. §§ 801, 802). Improper authentication. (Fed. R. Evid. § 901). Irrelevant. (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
8.	Levenson Decl. Ex. 9: Netflix 2024 10-K	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
9.	Levenson Decl. ¶ 13: Laura Wray Piers Morgan Uncensored Interview	Inadmissible hearsay (Fed. R. Evid. §§ 801, 802). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
10.	Levenson Decl. Ex. 10: LinkedIn Profile of Lisa Taback.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
11.	Levenson Decl. Ex. 11: Board of Directors page from The Gotham Film & Media Institute's website.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
12.	Levenson Decl. Ex. 12: copy of the Partnership page from The Gotham Film & Media Institute's.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
13.	Levenson Decl. Ex. 13: article about the Venice Film Festival sponsored by Netflix and The Gotham Film & Media Institute.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
14.	Harvey Decl., ¶ 6: “Unlike the primary process in American politics where the public votes for a nominee, under the Parliamentary system, the nominees who get to run for Members of Parliament are chosen by the Labour Party itself.”	Inadmissible speculation (Fed. R. Evid. § 602, 701). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
15.	Harvey Decl., ¶ 6: “In other words, I did not canvass, or make speeches, or run media advertisements seeking votes from members of the public, when I sought the nomination. I simply was not chosen by the Labour Party.”	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
16.	Harvey Decl., ¶ 9: “Gadd craved attention at the bar. He flirted with me and we exchanged banter”	Inadmissible speculation (Fed. R. Evid. §§ 602, 701). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
17.	Harvey Decl., ¶ 13: The allegations Netflix made about me in Baby Reindeer are completely false. I never waited for Gadd outside his home. I never had any sexual contact with Gadd. I never attacked Gadd. I never gouged his eyes or smashed a glass over his head. I never stalked a police officer. I have never been indicted of a crime. I have never been convicted of a crime. I have never pled guilty to a crime. I have never been to prison.	Improper legal conclusion (Fed. R. Evid. §§ 701, 704). Argumentative; conclusory. <i>See Gilbert v. Sykes</i> , 147 Cal. App. 4th 13, 26 (2007). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
18.	Harvey Decl., ¶ 14: I am horrified that Netflix included scenes in Baby Reindeer where I am having sex with Gadd.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
19.	Harvey Decl., ¶ 16: No one from Netflix, including Richard Gadd, contacted me about Baby Reindeer before or after it was released.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
20.	Harvey Decl., ¶ 17: As a result of Baby Reindeer, total strangers and members of the media began to contact me on or about April 21, 2024 through Facebook identifying me as “Martha” from Baby Reindeer. Exhibits 1-23. The Exhibits are a fraction of the thousands, I estimate 5,000 – 10,000 messages, I received from total strangers in response to Baby Reindeer. These individuals accused me of rape (Exhibits 1-2, 22), threatened me (Exhibits 1-2) and told me to kill myself or wished me grave harm (Exhibits 5-6, 16). Individuals specifically referenced the “hang my curtains” tweet. Exhibits 12-13, 15. Others attempted to call me. Exhibits 5, 11.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible hearsay (Fed. R. Evid. §§ 801, 802). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
21.	Harvey Decl., ¶ 18: As a result of being identified and out of concern for my safety, I decided to go on the Piers Morgan Uncensored show to defend myself and explain that while I do know Richard Gadd, I did not do any of the actions that Baby Reindeer says that I did. . . . I have reviewed Netflix’s claim that on Piers Morgan I said Baby Reindeer was not me. Netflix has twisted my words. My comment was that I did not do the things Richard Gadd said I did in Baby Reindeer.	Contradicted by video evidence. <i>See Rice v. Morehouse</i> , 989 F.3d 1112, 1120 (9th Cir. 2021). Argumentative; conclusory. <i>See Gilbert v. Sykes</i> , 147 Cal. App. 4th at 26. Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
22.	Harvey Decl., ¶ 19: As a result of Baby Reindeer, I had to close my Face book account and stopped watching the news for fear of any story about me. I am afraid to go outside out of fear of being attacked. Some weeks I do not leave my apartment. I am suffering from, among other things, constant panic attacks, chest pains, anxiety, nightmares, depression, nervousness, stomach pains, loss of appetite, fear and insomnia. The stress and anxiety is also severely affecting my diabetes.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
23.	Harvey Decl., ¶ 20: Annexed as Exhibit 24 is a true and correct copy of a Certificate from the United Kingdom confirming that I have never been convicted of a crime.	Inadmissible hearsay (Fed. R. Evid. §§ 801, 802). Lack of foundation (Fed. R. Evid. § 901).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
24.	Harvey Decl., Exs. 1-23: Facebook messages.	Inadmissible hearsay (Fed. R. Evid. §§ 801, 802). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
25.	Harvey Decl., Exhibit 24: Certificate from the United Kingdom confirming that I have never been convicted of a crime.	Lack of foundation; not properly authenticated (Fed. R. Evid. § 901). Inadmissible hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
26.	Hala Decl., ¶ 3: I have known Fiona Harvey just under seven years, when I was introduced to her just by a colleague and became a hair stylist. When I started my own salon, Fiona came with me and continues to be a frequent customer.	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
27.	Hala Decl., ¶ 4: I understood, as represented very early in the first episode, that the series was a “true story.” After completing the first episode, I turned to her and said, “that’s Fiona Harvey, my customer.”	Improper legal conclusion (Fed. R. Evid. § 701). Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
28.	Hala Decl., ¶ 5: That conclusion was very obvious for many reasons. Fiona, like Martha in the series, is a strong and spicey Scottish woman who used to live in Camden. Martha looks like her. Martha sounds like her. Martha dresses like her. Martha is an attorney, like Fiona Harvey. Martha is very bright and, at times, extremely funny and endearing, like Fiona Harvey. Martha, also like Fiona Harvey, is a highly stressful individual who does have emotional issues, another aspect of Martha captured in the series.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
29.	Hala Decl., ¶ 6: Martha, like Fiona Harvey, is Scottish with a strong Scottish accent. Martha is the same age. Martha has the same cadence and, like Fiona Harvey, is overweight with the same physical appearance as Fiona. Martha even dresses like Fiona, as they both wear big, baggy dresses. She even wears her watch tightly strapped on her large wrist, as Fiona does.	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
30.	Hala Decl., ¶ 7: Indeed, I was very impressed how well Richard Gadd, the writer and actor in the series, was able to make Martha appear to be Fiona in every way. He even has her drinking tea, which Fiona does every time she comes into my salon. All of those characteristics are remarkably identical.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
31.	Hala Decl., ¶ 8: Gadd even depicts her standard of living and the food she eats. While I have never visited the flat, I do know that, like Martha, Fiona Harvey regularly eats pre-packed, ready-made microwave food. I know that because we talk about it when she comes to the salon and, often times, either before or after her hair appointment, she will tell me she is going to buy that type of food. And in the series there is a scene that shows her kitchen with those same foods.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701). Lacks personal knowledge; inadmissible speculation (Fed. R. Evid. §§ 602, 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
32.	Hala Decl., ¶ 9: Having seen the series, I decided not to tell Fiona about it because I did not want to upset her. I also know that Fiona is diabetic and that individuals suffering from diabetes can have difficult moments, depending on their sugar intake, so I intentionally did not want to tell her about the series but wondered if she was aware of <i>Baby Reindeer</i> and how Gadd and Netflix produced a show about her.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
33.	Hala Decl., ¶ 10: Sometime in April 2024, after I had already seen the series, Fiona Harvey came in for a hair appointment. She was very upset and afraid and told me there was a series about her. I did not tell her that I had seen it as I did not want to upset her.	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
34.	Hala Decl., ¶ 11: I did not closely follow the story but became aware that numerous news outlets, including the Daily Mail and Daily Record in Scotland, were following the story. I also became aware that numerous individuals of my staff followed the story which was all over Instagram and Facebook. They were very much aware of and on top of the situation. I simply did not do so, as I do not have time in the day to spend on those social media apps.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible speculation (Fed. R. Evid. §§ 602, 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
35.	Hala Decl., ¶ 12: As Fiona continued to come in for her hair on occasion, she was very concerned about people recognizing her as I understand the social media cites were filled with negative comments about Fiona Harvey. I became concerned for her health and wellbeing.	Irrelevant (Fed. R. Evid. §§ 401, 402). Inadmissible speculation (Fed. R. Evid. §§ 602, 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
36.	Hala Decl., ¶ 13: I was also generally familiar with Richard Gadd before the Netflix series. He had a small following as a terrible comedian.	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
37.	Hala Decl., ¶ 14: The more I watched the episodes the more confident I was that Martha is Fiona Harvey. There is no doubt. Indeed, my entire staff and I have watched the series and recognized that it is about Fiona Harvey. At the salon, we all talk about how closely Gadd depicted Fiona Harvey as Martha.	Irrelevant (Fed. R. Evid. §§ 401, 402). Improper legal conclusion (Fed. R. Evid. § 701); Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
38.	Dingwall Decl., ¶ 6: I Googled “real life Martha” and it referred me to the X social media platform where I found Fiona Harvey’s tweet to Richard Gadd about ‘hanging her curtains’ in minutes.	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
39.	Dingwall Decl., ¶ 7: She was a completely unknown person who was thrust in the spotlight as a result of <i>Baby Reindeer</i> .	Improper legal conclusion (Fed. R. Evid. § 701). Inadmissible speculation (Fed. R. Evid. §§ 602, 701).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
40.	Dingwall Decl., ¶ 9: Immediately after my article was published, I received intense feedback from people who questioned why I was giving a voice to Fiona Harvey, since she was a convicted criminal who did the things shown in <i>Baby Reindeer</i> .	Inadmissible Hearsay (Fed. R. Evid. §§ 801, 802). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
41.	Dingwall Decl., ¶ 9: People were taking <i>Baby Reindeer</i> as true story.	Improper legal conclusion (Fed. R. Evid. § 701). Inadmissible speculation (Fed. R. Evid. §§ 602, 701). Inadmissible hearsay (Fed. R. Evid. §§ 801, 802).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
42.	Armstrong Decl., ¶ 4: I found Fiona Harvey by searching social media for the “curtains” comment which was easy. I also found the article about Harvey stalking Laura Wray referenced in Baby Reindeer article by Googling, in essence, “barrister, disabled child, stalker.”	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
43.	Armstrong Decl., ¶ 5: So many people caught on to her identity very quickly and I was, I believe, a day ahead of them and may have been one of the first to identify her.	Improper lay opinion (Fed. R. Evid. § 701). Inadmissible speculation (Fed. R. Evid. §§ 602, 701). Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
44.	Armstrong Decl., ¶ 6: I do not know Harvey but am concerned for her safety.	Irrelevant (Fed. R. Evid. §§ 401, 402).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

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IT IS SO ORDERED.

Dated: _____, 2024

Hon. R. Gary Klausner
United States District Judge